



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

FARID FATA,  
Plaintiff,

vs.

UNITED STATES OF AMERICA,  
Defendant.

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Civil Action No. 2:24-3830-MGL

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**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
AND GRANTING DEFENDANT'S MOTION TO DISMISS WITHOUT PREJUDICE  
AND WITH LEAVE TO REFILE**

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Plaintiff Farid Fata (Fata), who is representing himself, brought this civil action against Defendant United States of America (the BOP), alleging various medical malpractice claims under the Federal Tort Claims Act, 28 U.S.C. § 2671 et seq.

This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending the Court grant the BOP's motion to dismiss Fata's COVID-19-related claims without prejudice and with leave to refile following exhaustion of the administrative remedy process. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court

may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on November 22, 2024. To date, the parties have failed to file any objections.

“[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845–46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case under the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court the BOP’s motion to dismiss is **GRANTED**, and Fata’s COVID-19-related claims are **DISMISSED WITHOUT PREJUDICE**, with leave to refile following exhaustion of the administrative remedy process.

**IT IS SO ORDERED.**

Signed this 7th day of January 2025, in Columbia, South Carolina.

s/ Mary Geiger Lewis  
MARY GEIGER LEWIS  
UNITED STATES DISTRICT JUDGE

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**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this Order within sixty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.